NOTES OF CASES.

Bankruptcy Act—Debts—"Personal Tax."—It was held in Matter of Flatau & Stern (D. C., N. Y.), 21 Am. B. R. 352, that a personal tax due and owing to the city of New York is a "debt" within the meaning of the Bankruptcy Act, 1898.

Money Lent for Gambling Abroad—9 Anne, c. 14.—If A lends B money in a foreign country to stake upon a game lawful there, though prohibited here, and B gives A a cheque for the amount upon an English bank, A cannot recover upon the cheque in an action in England. This was recently determined by the Court of Appeal in Moulis *v.* Owen. If, however, B does not give A a cheque, and A sues him for money lent, he can recover in England. This was decided by Lord Lyndhurst on appeal in Quarrier *v.* Colston; and although doubt has since then been cast on his judgment, it was followed last week by the Court of Appeals in Saxby *v.* Fulton. The reason of this anomalous state of things is that the former case is held to be governed by the Gaming Act, 1710 (9 Anne, c. 14), § 1, which, as amended by the Gaming Act, 1835, § 1 makes any bill or note for money won at certain prohibited games or lent to play at such games a security given upon an illegal consideration. The courts have held that when the bill is payable in England, the bill transaction is governed by English law, and the Statute of Anne does not allow the payee to recover. On the other hand, it has been held that as gaming and wagering are legal at Common Law, the enforcement of an obligation binding the lender according to the law of the country where it was incurred, though irrecoverable under the Gaming Acts, cannot be refused in an English Court on the ground that its enforcement is contrary to public policy or morality. Morality is not the creation of statutes. The term denotes, as Lord Justice Vaughan-Williams said, the basis of morality which, irrespective of statute law, is assumed to prevail in this country. Unless the House of Lords should hereafter decide otherwise, it must now be considered settled that the Gaming Acts have no application to transactions completed abroad. One point has, however been left in doubt, viz: whether, if a security payable in England be given, the foreign creditor can sue here on the consideration. In Moulis *v.* Owen, the plaintiff's claim was on the cheque, and the Court of Appeal not only refused to allow an amendment to enable him to sue for money lent, but were divided on the question whether the Statute of Anne avoided the contract as well as the security.—London Law Journal.

Constitutionality of Bank Guaranty Law.—The first case involving the constitutionality of the Oklahoma Bank Guaranty Law to be decided by the Supreme Court of that State is Noble State Bank *v.*

Haskell, 97 Pac. 590. The statute was attacked by the plaintiff bank on the ground that it impaired its contract rights under its charter, and that it resulted in taking property without due process of law. As the constitution of Oklahoma reserved the right to the State to after, amend or revoke all charters, there was plainly no basis for the plaintiff's first contention, and as the act applied only to banks incorporated under the laws of the State, the same constitutional provision disposed of the second contention,—in other words, the levy of an assessment equal to 1 per cent of the average deposits of a bank for the purpose of making a fund from which depositors in insolvent banks could be repaid their deposits, amounted to nothing more than amending the charters of all banks incorporated by the State. The Supreme Court of Oklahoma accordingly held the act in question not in conflict with either the State or Federal constitution. The opinion of the court, delivered by Williams, C. J., contains an extensive review of the authorities with reference to the powers belonging to the States to control corporations organized under their laws.—National Corporation Reporter.

Right to Waters Underlying Land.—A somewhat novel question was presented in Hathorn *v.* National Carbonic Gas Company, 112 N. Y. Supp. 374. A statute of New York prohibited pumping or otherwise drawing by artificial appliances from any well made by drilling into the rock, certain mineral waters, etc., for the purpose of extracting and vending the gas separate from the water. The statute seems to have been made to order for the benefit of certain persons owning mineral springs at Saratoga, and drawing their water from the same general subterranean reservoir. The contention of the defendant was that it had the right to draw in any way it saw fit all of the water that came into its well, even though that proceeding resulted in drawing all of the water from the common reservoir. It is difficult to concur in the opinion of the New York Court, upholding the statute. Certainly, at common law, if the wells of A and B tapped the same sources of supply, neither could restrain the other from drawing from his well to any extent that he saw fit, and if the supply was not sufficient for both of them, the one who was most diligent in appropriating it would acquire a good title to it. The same principle has been followed, we believe, in all of the States with reference to oil and gas, no effort having been made so far as we know to restrain the appropriation by the owner of one well of all the oil or gas that he could get by pumping, dynamiting, etc.—National Corporation Reporter.

Disbarred Attorney Disqualified from Acting as State's Attorney.—In an interesting opinion handed down by the Supreme Court of South Dakota in Danforth *v.* Egan, 119 Northwestern Reporter, 1021,